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PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
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NEW DELHI, THURSDAY, JULY 17, 1997/ASADHA 26, 1919

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 17 जुलाई, 1997

का. आ. 506(अ).—केन्द्रीय सरकार ने विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नेशनल डेमोक्रेटिक फ्रन्ट ऑफ बॉइलॉड (एन डी.एफ.बी.) को भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का.आ. 811(अ), तारीख 23 नवम्बर, 1996 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा विधि विरुद्ध संगम घोषित किया था;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का.आ. 885 (अ), तारीख 20 दिसम्बर, 1996 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री डी. के. जैन थे;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को 20 दिसम्बर, 1996 को इस बात के न्यायनिर्णयन के प्रयोजन के लिए उक्त अधिकरण को निर्दिष्ट किया था कि उक्त संगम को विधि विरुद्ध घोषित करने के लिए पर्याप्त कारण था अथवा नहीं;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए, तारीख 20 मई, 1997 को एक आदेश किया था;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में उक्त अधिकरण के उक्त आदेश को प्रकाशित करती है, अर्थात् :—

अंग्रेजी पाठ के अनुसार

नई दिल्ली में 20 मई, 1997 को हस्ताक्षरित तथा सुपुर्द

न्यायमूर्ति डी. के. जैन,

विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण

[फा. सं. 11011/23/96-एन.ई.-4]

जी. के. पिल्लै, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 17th July, 1997

S.O. 506 (E).—Whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the National Democratic Front of Boroland (NDFB) to be an Unlawful association vide notification of the Government of India in the Ministry of Home affairs number S.O. 811 (E), dated the 23rd November, 1996 (hereinafter referred to as the said notification);

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted vide notification of the Government of India in the Ministry of Home Affairs number S.O. 885 (E), dated the 20th December, 1996, the Unlawful Activities (Prevention) Tribunal, consisting of Justice Shri D.K. Jain, Judge of Delhi High Court;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on the 20th December, 1996, for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, made an order on the 20th May, 1997, confirming the declaration made in the said notification;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal namely:—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

In re: National Democratic Front of Boroland

CORAM:

Hon'ble Mr. Justice D.K.Jain

Present: Mr. A.K.Vali, Standing Counsel for UOI
Mr. Shakil Ahmed Syed with Mr.M.Tayyab Khan
and Ms. K.B.Hina, counsel for the State of
Assam.

ORDER

1. In exercise of powers conferred under sub-section (1) of Section 3 of The Unlawful Activities (Prevention) Act, 1967, (for short the Act), the Central Government vide notification No.S.O.811(E), dated 23 November 1996, has, for the reasons stated therein, declared the Bodo Security Force, since re-christened as National Democratic Front of Boroland (hereinafter referred to as NDFB), to be an unlawful association with immediate effect. Further, exercising the powers conferred by proviso to sub-section (3) of Section 3 of the Act, the Central Government has directed that subject to any order that may be made under Section 4 of the Act, the said notification shall have effect from the date of its publication in the official Gazette. The notification has been published in the Gazette of India (Extra-ordinary), Part II, Section 3 - sub-section (ii), on 23 November 1996.

2. Consequent upon the said notification, by a separate notification No.S.O.885(E), dated 20 December 1996, the Government of India, Ministry of Home Affairs, New Delhi, constituted this Tribunal under Section 5 of the Act and made this reference under Section 4 of the Act for the purpose of adjudicating whether or not there is sufficient cause for declaring the N.D.F.B. as an unlawful association. The reference was received the same evening along with a copy of the Gazette notification dated 23 November 1996, specifying the grounds for its issue, as also a copy of the notification dated 20 December 1996, constituting the Tribunal and a brief resume regarding the aims and objectives and violent activities of N.D.F.B. The resume narrates the following facts which evidently form the basis for the grounds for issue of notification under Section 3(1) of the Act:

(i) Bodo Security Force, since re-christened as National Democratic Front of Boroland was formed in 1986 with the aim and objective of liberating the Boro inhabited areas of Assam from India and to form an independent union through armed struggle. It continues to adhere to its ideology assiduously and (in furtherance of the objectives of a separate boro

land through armed struggle) has been committing several crimes like killings of civilians.

(ii) It was formed with the following aims and objectives:

"1. Liberate the Bodoland with armed struggle for maintaining the distinct identity and civilisation of the Bodos.

2. Transform A DEMOCRATIC SOCIALIST SOCIETY to promote LIBERTY, EQUALITY AND FRATERNITY.

3. Free the Bodo nation from socio-political" and economic exploitation, oppression, suppression and colonisation, and

4. Struggle for National Liberation of Indo-Burma Region in alliance of the oppressed aboriginal nationalities of the Region."

(iii) There has been a steady increase in the violent activities of N.D.F.B. since 1993 and during the year 1994, the outfit committed 75 violent incidents resulting in the death of 130 persons (including 22 police/security forces personnel), as against 36 incidents of violence resulting in 31 deaths during 1993. Even during the currency of the earlier notifications, declaring Bodo Security Force as an unlawful association, this outfit has continued with its secessionist activities and war of insurrection against the Government of India by

stepping up its acts of terrorist violence including attacks on police/security forces personnel and looting of arms and ammunitions from them to demoralise the security forces. During the period from 18 May 1995 to 27 October 1996, 115 incidents of violence attributable to N.D.F.B. were reported in Assam and during this period cadres of this outfit killed 158 persons (33 security forces personnel and 125 civilians). The civilians killed included their opponents belonging to other Boro factions with a view to promoting an environment of violence and disturbance in the Bodo Autonomous Council areas. There were large number of looting incidents resulting in taking away a number of arms of various assortment and a large number of arms and ammunitions from the security forces personnel after laying ambushes against them. The N.D.F.B. activists looted an un-specified huge amount of money from various individuals, businessmen, Government officials, tea garden executives etc; in the Bodo Autonomous Council area by way of extortion during the said period.

(iv) The N.D.F.B. has acquired large quantity of sophisticated weapons and it has recruited about 300 fresh cadres for sending them for training in Bhutan. The latest target of their orgy of violence is Adivasis. They have played an active and important

role in the ethnic disturbances in 200 villages in Kokrajhar and Bongaigaon districts involving members of Santhal and Boro communities which has resulted in rendering more than 2 lakhs Adivasis homeless; burning of 168 villages and killing of more than 158 persons.

(v) The present strength of N.D.F.B. is estimated to be about 500 hardcore/trained cadres and their arsenal comprises sophisticated weapons which include Ak 47 rifles, LMGs, SLRs, carbines, rocket launchers, mortars and Stenguns etc.

(vi) In furtherance of its aims and objectives the N.D.F.B. has developed links with other unlawful associations operating in the North Eastern region, like United Liberation Front of Asom(ULFA), National Socialist Council of Nagaland (NSCN). In association with NSCN(I), it has formed an umorella organisation styled as "Self Defence United Front of South East Himalayan Region" comprising NSCN(I), N.D.F.B. and North East Extremist Groups of Tripura, Meghalaya and Manipur. This organisation has training camps/shelters/ hide outs in Bhutan and Bangladesh. Some of the major incidents of violence perpetrated by the activists of NDFB during the last two years have also been enumerated in the said resume.

3. The resume further goes on to state that the

activities of N.D.F.B., some of which having been enumerated therein, are clear indicators to its design to continue with its terrorist and secessionist activities through armed struggle for creation of an independent boro land. It is pointed out that it has continued to maintain assiduously its professed aim of liberating boro area of Assam from the Indian Union through armed struggle and alliance with other armed secessionist organisations of the North East region and with that end in view it has been perpetrating illegal and violent activities which of late has assumed alarming proportions. It is pleaded that the activities of N.D.F.B. are threats to the sovereignty, security and integrity of India.

4. On receipt of the reference under sub-section (1) of Section 4 of the Act, notice under sub-section (2) of the said Section was directed to be issued to N.D.F.B. calling upon it to show cause in writing within thirty days of the date of service of notice why the association should not be declared unlawful and why order should not be made confirming the declaration made in the notification dated 23 November 1996. The notice was ordered to be served on N.D.F.B. by publication in the newspapers published and circulated in the State of Assam and by affixing a copy thereof to some conspicuous part of the office of

N.D.F.B., if any, as also serving a copy of the notice on the principal office bearers of the association and displaying the same at prominent public areas including the office of the District Magistrate, as per some of the modes prescribed under Rule 6 of the Unlawful Activities (Prevention) Rules, 1968.

5. In response thereto affidavits of service of notice were filed on behalf of the Central Government and the State of Assam. Copies of the English and Assamese dailies wherein the notices about the constitution of this Tribunal and calling upon the N.D.F.B. to show cause, were published, have been filed. It is stated therein that notices have been served on some of the self-styled office bearers of N.D.F.B., who are either in judicial custody or undergoing treatment in hospital and these have also been pasted on the notice board of the office of District Magistrate; Dy. Commissioner, Distt. Darrang and Sub-Divisional Magistrate of Udalgiri Sub-Division. I am satisfied with the service of show cause notice in terms of sub-section (2) of Section 4 of the Act.

6. Despite service of notice, neither any one has put in appearance on behalf of N.D.F.B. nor any cause has been shown by it or on its behalf. It has accordingly been proceeded ex parte. The Central

Government is represented by Shri A.K.Vali, Advocate and Shri Shakil Ahmed Syed with Mr. M.Tayyab Khan and Ms. K.B.Hina, Advocates have represented the State of Assam.

7. On behalf of the Central Government, by way of evidence, affidavit dated 17 March 1997 has been filed by Shri L.K.Prasad, Under Secretary, Ministry of Home Affairs, Government of India, New Delhi alongwith certain documents. Similarly on behalf of the State of Assam, an affidavit dated 14 March 1997 has been filed by Shri J.H.Ahmed, Superintendent of Police, Special Operation Unit (SOU), along with certain documents.

8. The Central Government and the State of Assam were granted opportunity to adduce oral evidence or produce any further material to substantiate its stand that there was sufficient cause for declaring N.D.F.B. as an unlawful association. The State of Assam has examined two witnesses and the Central Government has produced one witness. The witnesses whose oral testimony was recorded are Shri D.Ahmed, Superintendent of Police, Darrang District, Assam (PW.1), Shri J.H.Ahmed, Superintendent of Police, Special Operation Unit(SOU), Assam(P.W.2) and Shri L.K.Prasad, Under Secretary, Ministry of Home Affairs, Government of India, New Delhi (P.W.3).

9. The issue to be considered is whether on the facts and circumstances stated in the notification, dated 23 November 1996 and the resume accompanying the reference, there is sufficient cause for declaring the N.D.F.B. unlawful?

10. P.W.1, Shri D.Ahmed has deposed that as Superintendent of Police, Darrang District, Assam, since 1995 he is incharge of security in the entire district and is, therefore, conversant with the activities of N.D.F.B. He has stated that his district falls in between Sonitpur and Kamrupa Districts where the N.D.F.B. cadres are very active because it is largely boro inhabited area. He has produced and proved certain photographs (Ex. P.W.1/A1 to 10), which were seized from N.D.F.B. activists from their hide outs when raids were conducted on the basis of information furnished by them. He also proved the incident dated 1 August 1996 (FIR, Ex. P.W. 1/B) when Shri Golap Thungon, brother of Shri P.K.Thungon, ex-Union Minister was kidnapped while he was on his way to the place of work. He also tendered in evidence a receipt book bearing running serial numbers and printed by the office of the N.D.F.B. with Headquarters at Dwimu(Ex.P.W.1/C). The said receipt book having carbon copies of receipt, showing recovery of ransom of Rs.3 lakhs from Shri G.Thungon

on 20 February 1996 has been proved by him. He also proved another incident dated 30 August 1995 (FIR Ex. P.W.1/D) when a businessman, namely Jagdish Khaitan of Jalukbari in Darrang District was shot dead outside his house. He further tendered in evidence another photograph showing a large number of bundles containing currency notes, collected by N.D.F.B. activists. (P.W.1/E).

11. P.W.2, Shri J.H. Ahmed, who as Superintendent of Police is incharge of Special Operation Unit, Assam, assigned the duties to keep a watch on the activities of extremists in the entire State of Assam, besides proving the affidavit filed by him on 14 March 1997 (Ex. P.W.2/A) and the statement, giving the figures of incidents relatable to N.D.F.B. for the period from 18 May 1995 to 27 October 1996 (Ex.P.W.2/B), has deposed that in one of the operations carried out by the State Police in association with the para-military forces on the hide outs of N.D.F.B. one extremist namely, Rumal Daimary was arrested, whose interrogation provided vital information about the activities of N.D.F.B. and the details of various amounts received by the said organisation from various persons by way of extortion. He proved the extracts taken out from the revelations made by Rumal Daimary (Ex. P.W. 2/D).

12. P.W.3, Shri L.K.Prasad proved the affidavit dated 17 March 1997 (Ex. P.W.3/A). He also proved the constitution of the Bodo security force, forming part of his affidavit(Ex. P.W.3/B). Shri Prasad also deposed that Boro Security Force was declared as unlawful under the Act for the first time vide notification issued on 23 November 1992, which was confirmed by the Tribunal constituted under the Act. He also deposed that Bodo security force was again declared as unlawful association vide notification issued on 23 November 1994, which was again confirmed by the Tribunal constituted under the Act. He further deposed that a report was received from the State of Assam (P.W.3/E), recommending extension of validity of the notification dated 23 November 1994 for a further period of two years and acting on the said report, the present notification was issued.

13. From the aforementioned affidavits as well as oral and documentary evidence produced on record it appears that the Bodo security force was established sometime in the year 1986, it was re-christened as National Democratic Front of Boroland (N.D.F.B.) sometime in the year 1993 and presently it maintains close nexus with other unlawful organisations like the United Liberation Front of Asom (ULFA). The constitution of Boro Security Force, adopted by the N.D.F.B., (Ex.

P.W.3/B), lays down its main objectives as:

"(A) Liberate the Boroland with armed struggle for distinct IDENTITY and CIVILISATION of the Bodos;

(B) Transform A DEMOCRATIC SOCIALIST SOCIETY TO promote LIBERTY, EQUALITY and FRATERNITY,

(C) Free the Boro nation from SOCIO-POLITICAL and ECONOMIC exploitation, oppression, suppression and colonisation, and,

(D) Struggle for National Liberation of Indo Burma Region in alliance of the oppressed aboriginal nationalities of the Region."

14. From the above it is evident that the main aim of N.D.F.B. is secession of Boro dominated areas from the Indian Union and to achieve this objective they have engaged themselves in attacking police, government employees and civilians and have killed various persons. They have also been kidnapping people to extort money, in particular the persons living in boro dominated areas and demanding from them huge sums of money as contribution to their freedom struggle. From the photographs placed on record it appears that they have been recruiting people for illegal training in camps in Bhutan for using them in secessionist activities. A large quantity of sophisticated arms and ammunitions has been recovered from the possession of the members of the N.D.F.B.

15. In the absence of any denial of allegations made in the affidavits filed on behalf of the Central Government and the State of Assam and any evidence in rebuttal on record, there is no reason to doubt the credibility of the version placed before the Tribunal by the officers of the Union and the State Government. Most of the incidents of kidnapping, extortion and killing etc. cited by the witnesses are based on their personal knowledge being incharge of the security in their capacities as the Superintendent of Police of the N.D.F.B. infected area; Superintendent of Police, incharge of a Special Operation Unit, assigned with the duty to keep a watch on the activities of the extremists in the State of Assam and the third one being an official in the Ministry of Home Affairs, directly dealing with the affairs of the State of Assam since 1991.

16. The material placed on record by the Central Government and the State Government shows that the N.D.F.B. is an armed insurrectionary organisation with its primary aim and objective to liberate Boro dominated areas of Assam through armed struggle, in association with other unlawful associations in the region within India and the organisations in the neighbouring regions across the country's border for the creation of boro land, thereby threatening the

sovereignty and integrity of India. The evidence placed on record further shows that to achieve the aforesaid objective, the N.D.F.B. has not only exacerbated the pro and anti boro feelings to create an atmosphere of unrest and exploit it to achieve their secessionist objectives, it has encouraged and aided its members to commit unlawful activities as noticed hereinabove.

17. In view of the evidence on record I am satisfied that there is sufficient cause for declaring National Democratic Front of Boroland to be an unlawful association by notification No.811(E), dated 23 November 1996, issued by the Government of India, Ministry of Home under Section 3(1) of the Act. Accordingly, the declaration made by the Government of India in the said notification is hereby confirmed.

Signed and delivered this 20th day of May 1997
at New Delhi.

JUSTICE D K JAIN,
Unlawful Activities (Prevention) Tribunal
[F No 11011/23/96-NE IV]
G K PILLAI, Jt Secy